

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

FEDERAL NATIONAL MORTGAGE
ASSOCIATION,

Plaintiff(s),

v.

ERNEST C. ALDRIDGE, et al.,

Defendant(s).

Case No. 2:15-CV-2366 JCM (GWF)

ORDER

Presently before the court is plaintiff Federal National Mortgage Association's ("plaintiff") ("Fannie Mae") motion for a preliminary injunction (doc. # 18); defendant Clarence Willis filed a response (doc. #24), and plaintiff filed a reply. (Doc. #27). The court held a hearing on January 26, 2016, and granted plaintiff's motion for preliminary injunction.

I. Background

Plaintiff owns the following nine real properties: 230 Flint Street, Fernley, Nevada 89408 (assessor's parcel No.: 020-323-06) ("Flint property"); 330 Garden Lane, Fernley Nevada 89408 (assessor's parcel No.: 020-729-15) ("Garden property"); 5373 Homeria Street, Las Vegas, Nevada 89113 (assessor's parcel No.: 163-28-720-01) ("Homeria property"); 7240 Mountain Moss Drive, Las Vegas, Nevada 89147 (assessor's parcel No.: 163-15-710-093) ("Mountain Moss property"); 7116 Cornflower Drive, Las Vegas, Nevada 89128 (assessor's parcel No.: 138-27-515-029) ("Cornflower property"); 5320 Hombly Avenue, Las Vegas, Nevada 89146 (assessor's parcel No.: 163-01-511-026) ("Hombly property"); 2523 Palma Vista Avenue, Las Vegas, Nevada 89121 (assessor's parcel No.: 162-12-310-045) ("Palma Vista property"); 4912 Canadian Drive, Las Vegas, Nevada 89130 (assessor's parcel No.: 125-36-814-012) ("Canadian property"); and 5654

1 Thunder Spirit Street, Las Vegas, Nevada 89148 (assessor's parcel No.: 163-30-816-006)
2 ("Thunder Spirit property") (collectively, "subject properties"). (Doc. #17)

3 Plaintiff alleges that over the course of several months, the defendants have engaged in a
4 conspiracy to defraud plaintiff of its interest in these nine Nevada properties. Defendants, without
5 any legal right or authorization by plaintiff, prepared, executed and recorded deeds purporting to
6 transfer title from plaintiff to the defendants.

7 It appears that the defendants executed all nine schemes using substantially similar
8 patterns. Fannie Mae acquired its ownership interest in a subject property pursuant to a Trustee's
9 Deed Upon Sale recorded in the official records for the appropriate county. Then, defendant Ernest
10 C. Aldridge would record and subsequently re-record a quitclaim deed. For each property, plaintiff
11 Fannie Mae would purportedly deed the property to defendant Aldridge for the amount of \$10.00.
12 Defendant Clarence Moses Willis would then sign the quitclaim deed as purported authorized
13 agent for Fannie Mae. The quitclaim deeds would list plaintiff's mailing address as 4912 Canadian
14 Drive, Las Vegas, Nevada 89130.

15 Plaintiff asserts that Clarence Moses Willis is not, nor as ever been, an employee of plaintiff
16 Fannie Mae and is not an agent or authorized representative of plaintiff in any capacity.
17 Furthermore, 4912 Canadian Drive, Las Vegas, Nevada 89130 is not plaintiff's mailing address.
18 Plaintiff also claims that it never authorized defendant Aldridge to prepare, execute or record any
19 quitclaim deed, nor did plaintiff authorize defendant Willis to prepare, execute or record any
20 quitclaim deed on its behalf.

21 Four of the properties, as detailed fully in plaintiff's motion for TRO and preliminary
22 injunction, have had a Grant, Bargain, Sale Deed recorded in the records of Clark or Lyons County.
23 (Doc. #17). "Pastor Ernest C. Aldridge and his successor, a corporate sole," has purportedly deeded
24 each of these properties to one of defendants Geri L. McKinnion, Creative Solutions 4 U, or
25 Clarence Moses Willis for \$10.00.

26 On January 13, 2016, this court granted plaintiff's *ex parte* motion for a TRO, set a briefing
27 schedule for the parties to file responses for the preliminary injunction motion, and set a hearing
28 date. (Doc. #19). Defendant Willis was the only defendant to respond. (Doc. #24). The other

1 defendants have not responded to the motion for preliminary injunction nor did they appear in
2 court for the preliminary injunction hearing.

3 In response to the motion for preliminary injunction, defendant Willis made no substantive
4 arguments pertaining to the motion for preliminary injunction. (Doc. #24). He did, however,
5 provide various documents including a certificate of business asserting that he was conducting
6 business under the fictitious name of “Federal National Mortgage Association,” and a purported
7 copy of a Nevada State Business License issued to “Federal National Mortgage Association” under
8 the address 4912 Canadian Drive, Las Vegas, NV 89130, Defendant Willis’s personal address.
9 (*Id.*)

10 Plaintiff’s reply argues that the attached exhibits in defendant’s response are clear proof
11 that defendant sought out and obtained various purported licenses in order to falsely operate under
12 its name, which is prohibited by the statute that governs plaintiff. 12 U.S.C. § 1723(a)(e). Plaintiff
13 never authorized defendant to use its name.

14 **II. Legal Standard**

15 It is well established that a plaintiff seeking a preliminary injunction or temporary
16 restraining order must demonstrate each of the following: (1) a likelihood of success on the merits;
17 (2) that he is likely to suffer irreparable harm in the absence of relief; (3) that the balance of equities
18 tips in his favor; and (4) that an injunction is in the public interest. *Winter v. N.R.D.C.*, 555 U.S.
19 7, 20 (2008). The test is conjunctive, meaning the party seeking the injunction must satisfy each
20 element.

21 Post-*Winter*, the Ninth Circuit has maintained its serious question and sliding scale test.
22 *See Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127 (9th Cir. 2011). “Under this approach,
23 the elements of the preliminary injunction test are balanced, so that a stronger showing of one
24 element may offset a weaker showing of another.” *Id.* at 1131. “Serious questions going to the
25 merits and a balance of hardships that tips sharply towards the plaintiff can support issuance of a
26 preliminary injunction, so long as the plaintiff also shows that there is a likelihood of irreparable
27 injury and that the injunction is in the public interest.” *Id.* at 1135 (quotations omitted).

1 Additionally, pursuant to Local Rule 7-2, an opposing party must file points and authorities
 2 in response to a motion and failure to file a timely response constitutes the party's consent to the
 3 granting of the motion. *See* LR IB 7-2(d); *United States v. Warren*, 601 F.2d 471, 474 (9th Cir.
 4 1979).

5 **III. Discussion**

6 *A. Likelihood of success on the merits*

7 Plaintiff argues that it is likely to succeed on the merits of its claims for declaratory relief,
 8 quiet title, fraud, conspiracy to defraud, slander of title, unjust enrichment, fraudulent conveyance,
 9 unauthorized impersonation, and trespass. (Doc. #17). However, for the purposes of this order, the
 10 court will focus its likelihood of success on the merits analysis on only those claims central and
 11 immediately relevant to the injunction preventing the unauthorized use of plaintiff's name and
 12 conveyance against the real properties in question. Because the court finds that plaintiff is likely
 13 to succeed on its claims for unauthorized impersonation, declaratory relief, quiet title, fraud, and
 14 conspiracy to defraud, the court need not address whether plaintiff is likely to succeed on the merits
 15 of its remaining claims.

16 *a. Unauthorized Use of the Name Federal National Mortgage Association*

17 Defendant Willis' unauthorized use of the name Federal National Mortgage Association,
 18 and the use of the name in Aldridge Quitclaim Deeds, is a violation of federal law. 12 U.S.C. §
 19 1723(a)(e) states that "[n]o individual, partnership, or corporation, except the bodies corporate
 20 named in section 1717(a)(2) of this title, shall hereafter use the words "Federal National Mortgage
 21 Association". . . or any combination of such words, as the name of part thereof under which the
 22 individual, association, partnership, or corporation shall do business." 12 U.S.C. § 1723(a)(e). An
 23 injunction is authorized for violating this statute. *Id.*

24 Plaintiff asserts it never authorized defendant to use its name, and there is no evidence to
 25 suggest the contrary. Indeed, the documents included in defendant's response make it clear that
 26 Willis intentionally sought out and obtained licenses in order to operate under the name Federal
 27 National Mortgage Association. (Doc. #25). Even if the licenses were properly issued, they would
 28 be void ab initio under the Supremacy Clause. *Val del Sol Inc. v. Whiting*, 732 F.3d 1006, 1022

1 (9th Cir. 2013). Plaintiff therefore has a high likelihood of success on the merits, and Defendant
 2 Willis is enjoined from use of or operation under the name “Federal National Mortgage
 3 Association.”

4 *b. Declaratory Relief*

5 Plaintiff argues that it is likely to succeed on its cause of action for declaratory relief
 6 because it has superior claim to the title of the subject properties. 12 U.S.C. § 1723(a)(e) states
 7 that “[n]o individual, partnership, or corporation, except the bodies corporate named in section
 8 1717(a)(2) of this title, shall hereafter use the words “Federal National Mortgage Association”. . .
 9 or any combination of such words, as the name of part thereof under which the individual,
 10 association, partnership, or corporation shall do business.” 12 U.S.C. § 1723(a)(e). An injunction
 11 is authorized for violating this statute. *Id.*

12 Declaratory relief is available when: (1) a justiciable controversy exists; (2) the controversy
 13 is between parties with adverse interests; (3) the party seeking declaratory relief has a legally
 14 protectable interest; and (4) the issue involved in the controversy is ripe for judicial determination.
 15 *Doe v. Bryan*, 102 Nev. 523, 525, 728 P.2d 443, 444 (1986) (citing *Kress v. Corey*, 65 Nev. 1, 26,
 16 189 P.2d 352, 364 (1948)); *see also Douglas v. Don King Productions, Inc.*, 736 F.Supp 223, 225
 17 (1990). Declaratory relief is also appropriate to clarify parties' rights to property where allegations
 18 of fraudulent conveyances exist. *See, e.g., Federal Home Loan Mortg. Corp. v. Gonzalez*, 2015W
 19 L 2358444, *3 (E.D. Cal. 2015) (granting declaratory relief where defendants executed and
 20 recorded, without authority, grant deeds conveying away Freddie Mac's ownership interest in the
 21 subject property).

22 Based on the documents provided, it appears that plaintiff obtained legal title to all of the
 23 subject properties via legitimate trustee's deeds upon sale. (Doc. #17, Exhs. 1, 5, 8, 11, 13, 16, 18,
 24 20, 22). Following the establishment of plaintiff's interests, defendant Aldridge, without
 25 authorization, prepared, executed and recorded unauthorized quitclaim deeds. These unauthorized
 26 deeds purported to convey title in the subject properties to Defendant Aldridge. In furtherance of
 27 this scheme, Defendant Willis, executed the quitclaim deeds purportedly on behalf of plaintiff,
 28

1 stating he was an "authorized agent." Plaintiff responds that defendant Willis is not, and has never
 2 been, an employee or authorized agent of Fannie Mae.

3 The court finds that plaintiff has demonstrated a likelihood of success on the merits. Given
 4 their lack of authorization to prepare, execute or record quitclaim deeds against the properties,
 5 defendants' actions appear to intentionally cloud title and allow them to profit by collecting rental
 6 proceeds for properties belong to plaintiff. (Doc. #17). However, as these deeds are fraudulent and
 7 unauthorized, they cannot convey title. *See Balfour v. Hopkins*, 93 F. 564, 569 (9th Cir. 1899);
 8 *United States v. Payette Lumber & Mfg. Co.*, 198 F. 881, 895 (D. Idaho 1912).

9 *c. Quiet Title*

10 Plaintiff next claims it is entitled to an order quieting title in Fannie Mae's names because
 11 the quitclaim deeds and GBS Deeds are fraudulent and unauthorized. Pursuant to N.R.S. § 40.010,
 12 a claim for quiet title "may be brought by any person against another who claims an estate
 13 or interest in real property, adverse to the person bringing the action, for the purpose of
 14 determining such adverse claim." *See also Chapman v. Deutsche Bank Nat'l Trust Co.*, 302 P.3d
 15 1103, 1107 (2013) (finding that a quiet title claim is set forth in N.R.S. 40.010).

16 The court finds plaintiff is likely to succeed on the merits of this issue. In a quiet title action,
 17 the burden of proof rests with the plaintiff to prove good title. *Brehant v. Preferred Equities Corp.*,
 18 112 Nev. 663, 918 P.2d 314, 318 (1996). Plaintiff obtained legal title to the properties via several
 19 trustee's deeds upon sale. (Doc. #17, Exhs. 1, 5, 8, 11, 13, 16, 18, 20, 22). Plaintiff claims to have
 20 never agreed to convey the subject properties to the defendants.

21 *d. Fraud and Conspiracy to Defraud*

22 Plaintiff claims that defendants knowingly prepared, executed and recorded fraudulent
 23 deeds. In Nevada, a cause of action for fraud requires a showing of false representation of a
 24 material fact, known to be false, with the intent to induce reliance. *Lubbe v. Barba*. 91 Nev. 596,
 25 599, 540 P.2d 115, 117 (1975).

26 A civil cause of action for conspiracy to defraud requires: 1) a conspiracy agreement. *i.e.*, a
 27 combination of two or more persons who, by some concerted action intended to accomplish an
 28 unlawful objective for the purpose of harming another; 2) an overt act of fraud in furtherance

1 of the conspiracy; and 3) resulting damages to the plaintiff. *Jordan v. State ex rel. Dept. of Motor*
 2 *Vehicles and Public Safety*, 121 Nev. 44, 75, 110 P.3d 30, 51 (Nev. 2005) (overruled on other
 3 grounds).

4 Here too, the court finds that plaintiff has demonstrated a likelihood of success on the merits.
 5 It appears that defendants collectively worked together to prepare, execute and recorded the
 6 quitclaim deeds and GBS deeds knowing that plaintiff did not authorize the deeds or conveyances
 7 of the subject properties. Plaintiff is a large-scale corporation that maintains records of its property
 8 interest and employees. Plaintiff also contends that defendant Willis falsely represented that he is
 9 an authorized agent of Fannie Mae. Because the defendants performed the same acts together on
 10 nine separate occasions, it is likely that defendants knew that plaintiff did not authorize the
 11 quitclaim deeds, and that defendant Willis is not and was not an authorized agent of Fannie Mae.
 12 Accordingly, the court finds that plaintiff has demonstrated a likelihood of success on the merits.

13 *B. Likelihood of irreparable injury*

14 Plaintiff argues that it will suffer irreparable injury if defendants continue to record
 15 fraudulent deeds concerning plaintiff's real property. Real property is unique, and the law
 16 holds that the loss of real property constitutes irreparable injury per se. *Deckert v. Independence*
 17 *Shares Corp.*, 311 U.S. 282, 290 (1940); *see also Dixon v. Thatcher*, 742 P.2d 1029 (Nev. 1987)
 18 (holding an injunction appropriate to prevent foreclosure of real property). Further, where
 19 property subject to the litigation is likely to be dissipated unless the court freezes the asset,
 20 and there are allegations of past fraud, an injunction is appropriate. *See, e.g., Fidelity Nat. Title*
 21 *Ins. Co. v. Castle*, 201 1 WL 5882878, *6 (N.D. Cal. 2011) (granting an injunction where
 22 defendants placed fraudulent liens on real property).

23 The court agrees with plaintiff. As defendants continue to prepare, execute, and record
 24 deeds that purport to strip Fannie Mae of recorded title to the subject properties, plaintiff's
 25 interests are further damaged or potentially conveyed entirely to other parties that may assert
 26 they are bona fide purchasers.

27 Plaintiff has demonstrated a high likelihood that it will suffer continued injury at the
 28 hands of defendants. Defendants have continued to record fraudulent deeds even after the

1 filing of the complaint. (Doc. #17, Exh. 24). The recording of this deed evidences an attempt
 2 to further cloud title and defraud plaintiff of its assets.

3 *C. Balance of hardships*

4 Plaintiff's claims of balance of the hardships weigh in its favor because it suffers a potential
 5 loss of property interest. (Doc. #17) If defendants proceed with their current efforts, additional
 6 properties could be affected and the title to the subject properties could be further clouded.
 7 Conversely, granting a temporary restraining order until the motion for preliminary injunction can
 8 be fully briefed and adjudicated will not create a hardship for defendants. Defendants need only
 9 temporarily refrain from executing and recording documents that reference Fannie Mae or
 10 properties in which the chain of title of the property reflects Fannie Mae as the owner of record of
 11 the property. If the court ultimately agrees with defendants' position at the preliminary injunction
 12 stage, the defendants will not be affected.

13 *D. Public interest*

14 Plaintiff contends that granting the injunction and preventing defendants from preparing
 15 and recording additional documents is in the public's interest. Defendants' conduct may lure
 16 additional tenants to sign leasehold agreements for properties they do not own, leaving tenants in
 17 a precarious position once the litigation resolves. Thus, it is in the public's best interest to enjoin
 18 Defendants' objectionable conduct rather than risk the addition of more properties and parties to
 19 the litigation.

20 **IV. Conclusion**

21 Based on the foregoing, the balance of factors weigh in plaintiff's favor and the court finds
 22 good cause to order a preliminary injunction against the defendants.

23 Accordingly,

24 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that plaintiff's motion for
 25 preliminary injunction (doc. # 18) be, and the same hereby is, GRANTED.

26 DATED January 26, 2016.

27 
 28 UNITED STATES DISTRICT JUDGE